

PS7010.05 INTERAGENCY AGREEMENT BETWEEN BOP AND USMS



U.S. Department of Justice
Federal Bureau of Prisons

Program

Statement

OPI: CCD
NUMBER: 7010.05
DATE: December 6, 1993
SUBJECT: Interagency Agreement between
U.S. Bureau of Prisons (BOP) and
U.S. Marshals Service (USMS)

1. PURPOSE AND SCOPE. To convey an Interagency Agreement between the Bureau of Prisons (BOP) and the U.S. Marshals Service (USMS) regarding fiscal and operational responsibilities for unsentenced prisoners in USMS contract jail facilities and BOP administrative facilities, and sentenced prisoners designated to serve their sentences in nonfederal facilities.

2. DIRECTIVE RESCINDED

P.S. 7010.04 Interagency Agreement Between The U.S. Bureau
Of Prisons And The U.S. Marshals Service
(03/20/85)

3. STANDARDS REFERENCED. None.

4. HIGHLIGHTS OF THE NEW MEMORANDUM OF UNDERSTANDING (MOU).
Generally, the new MOU (Attachment A) makes no significant changes; it only formalizes and clarifies practices which were widely accepted but had not been committed to writing in an agreement.

a. Prisoner Definitions

(1) (Page 1: I, 1.) Generally, a prisoner is the USMS' responsibility until delivered to the designated institution. However, USMS prisoners housed in BOP MCCs or MDCs (not including those FCIs with an administrative housing unit for USMS prisoners) prior to and at the time of sentencing shall become the BOP's responsibility upon final sentencing on all charges. This means that the BOP is responsible for providing outside medical services and guard services when necessary for these prisoners. However, if the USMS does not move the prisoner to the designated facility within 30 days of designation, then responsibility reverts back to the USMS.

(2) (Page 1: I, 3 and 4.) Competency cases committed pursuant to 18 U.S.C. 4241 and 4242 are USMS prisoners, and USMS is responsible for the cost of outside medical and guard services for these prisoners (The BOP will pay these bills and the USMS headquarters reimburses the BOP quarterly). However, all prisoners committed for study pursuant 18 U.S.C. 3552(b) and

those committed pursuant to 18 U.S.C. 4243 through 4247 are the BOP's responsibility.

(3) (Page 1: I, 5.) The BOP maintains responsibility for parole and mandatory release violators housed in local jails after 30 days, but now is also responsible for violators at BOP facilities from day one.

b. Fiscal Responsibilities. (Page 2: II, 4.) In an effort to contain medical costs for both agencies, it was agreed that the agencies would develop joint pilot projects, and work on sharing arrangements and joint contracts. Those institutions housing USMS prisoners should coordinate with the USMS when procuring new contracts for medical services or supplies.

c. U.S. Marshals Service. (Page 3: II, A, 4) The cost of housing prisoners in local jails during transport by the National Prisoner Transportation System (NPTS) is the USMS' responsibility; however, if a BOP prisoner requires hospitalization during transport, the BOP is responsible for hospitalization and guard services costs.

d. Joint Jail Contracts. (Page 5: III, A, 2 and page 9: III, B, 2) The USMS will advise the BOP CCM of negotiations for new jail contracts 30 days in advance, and the CCM will notify the USMS of the need for negotiations of new BOP contracts required by both BOP and USMS.

e. Miscellaneous. (Page 7: III, A, 12) The BOP acknowledges responsibility to normally accept all pretrial prisoners from the agreed upon judicial districts into those facilities designated for pretrial detention. However, both agencies acknowledge several limitations. This includes population ceilings and the range of operational capabilities at various BOP detention facilities. In view of such limitations, the BOP and USMS have agreed to develop more detailed operating instructions outside this MOU. When BOP pretrial facilities are unable to house a USMS prisoner, the decision not to accept such a prisoner shall not be delegated below the Associate Warden level.

f. Community Correction Center Failures. (Page 10: III, B, 11 through 13) These paragraphs specify agreement on greater coordination on the detention of CCC failures. The USMS agreed to pick up cases immediately when there is a security problem. The pick up of other failures should be coordinated to minimize overtime costs. The CCM and local USMS staff should identify jail facilities to use for CCC failures well in advance as a matter of procedure.

5. ASSISTANCE. Questions may be directed to the Detention Branch, Community Corrections and Detention Division, at (202) 514-8585.

\s\
Kathleen M. Hawk
Director

**Memorandum of Understanding (MOU) Between the
United States Marshals Service and the
Federal Bureau of Prisons Regarding the
Support of United States Prisoners**

This memorandum of understanding (MOU) defines Federal Bureau of Prisons (BOP) and U.S. Marshals Service (USMS) fiscal and operational responsibilities for unsentenced and sentenced prisoners in nonfederal contract facilities and for USMS prisoners in BOPs' facilities.

Both organizations shall respect the mission and responsibilities of the other. Each organization shall be conscious of the prisoner population demands upon the other and both shall work together to alleviate these pressures.

When issues not covered in this memorandum arise, or if provisions contained herein are found to need further clarification, the issues shall be subject to negotiation and resolution between the USMS and the BOP. The Deputy Attorney General or his designee shall receive copies of final modifications or additions to this memorandum. Should negotiation fail to resolve issues to the satisfaction of either party, the Deputy Attorney General, or designate, shall arbitrate the matter and render a final decision.

The specifics of the agreement are presented in three parts: Definitions, Fiscal Responsibilities, and Operational Responsibilities.

\s\
Henry E. Hudson, Director
United States Marshals Service

DATE: __\{10/15/93}_____

\s\
Kathleen M. Hawk, Director
Federal Bureau of Prisons

DATE: _\{10/14/93}_____

USMS-BOP
Page 1

I. PRISONER DEFINITIONS

1. The U.S. Marshals Service (USMS) is generally responsible for individuals remanded to the custody of the United States Marshal by the Federal Courts until such time as the prisoner is sentenced and a Judgement and Commitment (J&C) is provided to the Bureau of Prisons (BOP) and the prisoner has been transported and delivered to the designated BOP facility. However, USMS prisoners housed in BOP MCCs or MDCs prior to and at the time of sentencing (not those at other BOP detention facilities), shall become the responsibility of the BOP immediately upon final sentencing on all charges. In cases where the prisoner is not removed to the designated facility within 30 days of designation, the prisoner reverts to the responsibility of the USMS.
2. The BOP is generally responsible for prisoners who are sentenced with a J&C and transported and delivered to the designated BOP facility.
3. Also considered to be USMS prisoners are those committed and delivered to BOP facilities under Title 18 USC 4241 through 4242 (see related provisions II.A.10).
4. Also considered to be BOP prisoners are those committed and delivered to BOP facilities under 18 USC 3552(b), and Title 18 USC 4243 through 4247.
5. The USMS is responsible for Parole Violators and Mandatory Release Violators housed in a contract jail for the first 30 days after USMS assumes custody. The BOP assumes responsibility for all expenses for these prisoners on the 31st day thereafter. The BOP is also responsible for all expenses for Parole Violators and Mandatory Release Violators held in any BOP facilities from the date of commitment by the USMS.
6. The USMS is responsible for all expenses for inmates committed to a contract jail or a BOP facility pursuant to a Writ of Habeas Corpus and proper requests made by U.S. Attorneys (when local) to resolve a new or pending criminal charge or for civil proceedings or as a material witness, until released by the federal court or returned to the designated institution.

USMS-BOP
Page 2

7. The USMS is also responsible for state prisoners that are being transported and housed pursuant to a cooperative transportation agreement executed between the USMS and the respective state/local agency.

II. FISCAL RESPONSIBILITIES

1. The USMS is generally responsible for all expenses (care and custody, including medical and guard services) for USMS prisoners held in contract jails as defined above. It is also responsible for community medical and guard services for USMS prisoners housed in BOP facilities.
2. Persons detained under the Immigration laws of the United States for whom care and custody remains the fiscal and operational responsibility of the Immigration and Naturalization Service (INS) are excluded from this Agreement.
3. The BOP is generally responsible for all expenses (care and custody, including related medical and guard services) for BOP prisoners held in either contract or BOP facilities as defined above. The BOP is responsible for all in-house medical care provided to USMS prisoners housed in BOP facilities.
4. As inmate medical care cost containment remains a major priority for the USMS and BOP, the two agencies have agreed to work closely together to reduce health care costs. The agencies will develop joint pilot projects at selected institutions which house USMS prisoners. These pilot projects will focus on reducing health care costs through sharing arrangements, joint contracts, and other methods designed to contain medical costs.
5. For those USMS/BOP areas of responsibility not affected by the medical care cost containment initiative discussed above, the following day to day field operating instructions are provided to clarify the general statements above:

A. U.S. MARSHALS SERVICE

1. All expenses of USMS prisoners held in contract jails.

USMS-BOP
Page 3

2. Community hospital expenses, guard services and consultant medical fees, for medical services outside the institution, for USMS prisoners housed in BOP facilities.
3. If the court sentences an inmate to time served before the inmate has been designated or transferred to a BOP institution, the financial responsibility remains with the USMS.
4. Lodging costs for prisoners held in contract jails during transport by the National Prisoner Transportation System (NPTS). However, medical and guard costs for BOP prisoners in the NPTS system will be paid by BOP.
5. All expenses of inmates committed to a contract jail pursuant to a Writ of Habeas Corpus and proper requests made by U.S. Attorneys to resolve a new or pending criminal charge or for civil proceedings until returned to the designated institution.
6. All expenses of apprehended federal escapees housed in contract jails until returned to a designated facility. If the escapee is housed in a BOP institution, BOP will assume all expenses. If the escapee is charged and detained for the Court, then the fiscal responsibility is the same as for any other prisoner held by the USMS for the Court.
7. All expenses for Parole Violators and Mandatory Release Violators confined in a contract jail for the first 30 days after USMS assumes custody. BOP assumes responsibility for all expenses for these prisoners on the 31st day thereafter. BOP is also responsible for all expenses for Parole Violators and Mandatory Release Violators held in BOP facilities, including the first 30 days.
8. Rewards, when offered by the U.S. Marshal, for information leading to the apprehension of escaped inmates.
9. All expenses relating to the death of a USMS prisoner.

USMS-BOP
Page 4

10. All community medical and guard expenses for prisoners committed to BOP facilities pursuant to Title 18 USC Section 4241 and 4242. However, the BOP institution medical staff will review, certify, and pay these bills. The USMS Headquarters will reimburse the BOP for these bills on a quarterly basis.

B. **FEDERAL BUREAU OF PRISONS**

1. All expenses of BOP prisoners designated to and confined in any federal facility. When the BOP designates for service of sentence the same USMS contract jail where the prisoner was detained prior to sentencing, the financial responsibility of the USMS terminates and shifts to the BOP on the date of sentence.
2. In-house costs for care, custody, and medical services, which is provided in the BOP facility for USMS prisoners.
3. All expenses of inmates lodged overnight in state or local jails during transport by BOP personnel for escorted trips for funeral and death bed visits or moving from one institution to another. The BOP Transporting Officer should coordinate in advance with the appropriate U.S. Marshal to obtain information on availability and per diem rates for local jails.
4. All expenses of inmates lodged in, at the request of BOP Community Corrections Manager (CCM), a BOP or joint use contract facility as a result of being declared a program failure in a BOP contract community corrections center or other similar facility.
5. All expenses of inmates transferred from BOP institutions to contract jails for disciplinary or safety purposes, or other similar reasons.
6. All expenses for Parole Violators and Mandatory Release Violators housed in contract jails after the first 30 days in USMS custody. BOP is also responsible for all expenses for Parole Violators and Mandatory Release Violators housed in BOP facilities.

USMS-BOP
Page 5

7. Release gratuity, clothing and transportation expenses for inmates serving sentences in BOP designated contract facilities (Ordinarily, USMS pays for these expenses, then the local USMS personnel should request reimbursement from the local CCM office. The CCM will certify the bill and submit it to the BOP regional office, who will reimburse the local USM). Except in an emergency, the BOP will provide a minimum of five (5) working days advance written notice to the USMS.
8. All expenses relating to the death of BOP prisoner.

III. OPERATIONAL RESPONSIBILITIES

A. UNITED STATES MARSHALS SERVICE

Joint Jail Contracts.

1. The USMS shall include BOP in all jail contracts BOP wishes to use, provided the contractor has no objection, and provide a copy of the contract to the local BOP CCM Office. The USMS shall have priority use of bed space. Ordinarily, there shall be only one contract with each local jail facility for the confinement of federal prisoners. (See Section III.B.1.)
2. The USMS agrees to notify the BOP Community Corrections Manager (CCM) of negotiations for new jail contracts that are required by both the USMS and the BOP. The USMS shall initiate the contact with the appropriate CCM at least 30 days in advance of negotiations.
3. The USMS shall immediately advise the CCM of contract renewals, any change in rate or amendments to, or cancellation, of joint use contracts.
4. The USMS will attempt to notify the CCM 30 days in advance of scheduled monitoring visits to joint use contract jail facilities so the CCM may accompany USMS personnel. If, due to scheduling problems, both agencies conduct separate jail inspections, prior to issuance of the formal

USMS-BOP
Page 6

report they will consult with one another to resolve any areas of mutual concern. They shall provide copies of monitoring reports on joint use jails to one another.

5. The USMS will not make recommendations on contract facilities for which BOP holds the contract without prior notification of the CCM.

Designation and Transfer.

6. The USMS shall request designation from the BOP CCM for all sentenced prisoners, as well as probationers remanded to BOP custody pursuant to 18, USC, 3563(b)(11), within 48 hours of a signed Judgement in Criminal Court. The U.S. Marshal requesting designation shall furnish the BOP copies of the 129, Presentence Investigation (PSI) if received from the Probation Office, and a copy of the J&C. The USMS will also provide an information copy of the J&C to the institution when the prisoner is housed in a BOP facility. Three certified copies of the J&C will accompany the prisoner to the designated facility.
7. When it becomes necessary, for security reasons, to remove a sentenced federal prisoner from a contract facility, such as a state prison or a CCC, to a federal prison or a local jail, the CCM will contact the local USMS office by phone and will follow up in writing. The USMS will immediately remove the prisoner and will notify the CCM when this has been accomplished. If security concerns do not dictate the need of immediate removal, the CCM and USM shall work out an appropriate schedule for removal via NPTS.

Guard Service and Hospitalization.

8. With regard to IGAs for contract facilities, the BOP and the USMS will, if at all possible, require the contractor to provide guard services and transport for prisoners who require local hospitalization. If the contractor cannot do it, then the USMS will arrange for guard services and transport for prisoners serving their sentence in a contract facility.
9. When an offender is serving a sentence in a USMS contract facility, USMS personnel shall notify the responsible CCM of the medical/hospital needs of BOP prisoners in advance in non-emergency

USMS-BOP
Page 7

situations. In emergency situations, the USMS contractor is authorized to remove federal prisoners to medical facilities prior to notification to the CCM or USM. The U.S. Marshal shall advise the CCM as soon as possible after being notified of the hospitalization.

Miscellaneous.

10. For USMS prisoners in pretrial or presentence status housed in BOP facilities, the USMS, where possible, will notify the appropriate institution staff each day of significant court action and any significant changes in the prisoner's status which would impact on security concerns. Where districts have access to the BOP SENTRY System, the BOP agrees to accept the SENTRY daily court list for court updates. If the USMS district has no access to SENTRY, the BOP will accept the court list generated by the USMS Prisoner Population Management System (PPMS).
11. When initially committing a USMS prisoner to a BOP facility, the USMS will provide the following information on the prisoner: USM 41 (Marshals Remand), a completed BOP booking form (to be designed and implemented nationally for all institutions by BOP) and where applicable, the USM-130 (Prisoner Alert Notice).
12. The BOP acknowledges responsibility to normally accept all pretrial prisoners from the local or agreed upon judicial districts into its facilities designated for pretrial detention whether MCCs or detention units. However, several limitations are also acknowledged, such as:
 - a. The continued crowding of the BOP system. This crowding sometimes results in court imposed or agreed upon population ceilings.
 - b. A range of security and operational capabilities exists at various BOP detention facilities, which results in certain facilities being unable to handle prisoners with specialized needs, particularly health or security problems.

USMS-BOP
Page 8

In view of such limitations, the BOP and the USMS agree to develop for the use of their respective field managers more detailed operating instructions outside this MOU, which will be updated as needed. These instructions will acknowledge the BOP's responsibility for housing pretrial detainees but will also define any special limitations or requirements, by institution. This will ensure that personnel of both agencies will have a clear and mutual understanding of the availability of space by institution in sufficient advance time to allow for making necessary housing arrangements.

In those instances where BOP pretrial facilities are unable to house a USMS prisoner, the BOP will assist the USMS in attempting to identify other facilities in reasonable proximity which might accommodate the housing requirement. However, the decision not to accept such a prisoner shall not be delegated below the Associate Warden level.

13. When the institution staff learns of an escape or attempted escape, they shall immediately notify the local USMS office. When a sentenced BOP prisoner who is on escape status has been apprehended, the USMS will notify the BOP immediately. In cases where the prisoner escaped from a federal facility, notification will be to the institution administration. Where the prisoner escaped from a contract facility, the notification will be to the CCM office having responsibility. Immediate notification will be by phone with follow up in writing the same day. In the case of evenings or weekends, written notification will be by the next working day.

B. FEDERAL BUREAU OF PRISONS

Joint Jail Contracts.

1. The BOP agrees that the USMS shall have priority use of contract jail space in joint contracts. CCM's shall coordinate designation of sentenced prisoners to jointly used jail facilities with the USMS.

USMS-BOP
Page 9

2. The CCM agrees to notify the USMS of the need for negotiations of new BOP contracts that are required by both BOP and USMS. The BOP shall initiate the contact with the appropriate USMS representative at least 30 days in advance.
3. The CCM shall advise the USMS immediately of rate changes or amendments to contracts or cancellations on any BOP contracts that the USMS uses.
4. The CCM shall attempt to give the U.S. Marshal 30 days notice of scheduled monitoring visits of any BOP contracts that the USMS uses so that the USM may accompany the CCM on visits. The CCM shall provide copies of the monitoring report to the USM on such contracts.
5. The CCM, at his or her discretion, may be a part of the negotiating team for contract jail facilities required by both the BOP and USMS. The CCM, should accompany the USMS on monitoring visits to joint use contract jail facilities and shall review the USMS monitoring reports.
6. The CCM shall not make any recommendations as to improvements or modifications for joint use contract facilities, for which the USMS holds the contract, without prior notification to the USMS.

Designations and Transfer.

7. The BOP shall furnish the USMS with a designation within 72 hours of receipt of a request for designation unless the U.S. Probation Office did not provide the PSI.
8. The BOP agrees to expeditiously re-designate community corrections center program failures held in contract detention facilities, and provide notification of same to the USMS and the receiving BOP institution.
9. BOP institutions shall accept as holdovers BOP Community Corrections Center (CCC) failures from centers in the same geographical area. The CCM, or designee, shall advise the Inmate Systems Manager at the institution the same day as the transfer.

USMS-BOP
Page 10

10. BOP institution Wardens shall transfer inmates to jails only for good cause. When an inmate is transferred from a BOP institution to a contract jail, they shall notify the USMS and the CCM prior to the actual transfer. The institution Warden shall remove prisoners upon the request of the contract jail, or U.S. Marshal, if space is needed for court prisoners. The Warden shall provide for hospital and guard services for these prisoners.
11. For all Community Correctional Center (CCC) contracts, the CCM will meet with the U.S. Marshal to reach an agreement on which jails will be used to house CCC failures. The BOP will be added as a user on those joint use contracts for billing purposes.
12. If the CCM determines that the placement of a CCC resident in a local jail is necessary, the CCM (not the contractor) will make a request to the U.S. Marshal. The CCM will make requests for routine transfers to occur during normal business hours; however, when the CCM determines the resident is an escape risk, constitutes a threat to himself, staff or center residents, he will request immediate transfer. At the same time the request is made, the CCM and the U.S. Marshal will agree on the contract facility to be used in order to ensure that payment can be made by the CCM.
13. Once agreement on a CCC pick up has been reached, the resident is not to be advised in advance of any planned relocation and wherever feasible, the time for pick up of the resident by the USMS shall be coordinated to minimize overtime costs.

Guard Service and Hospitalization.

14. For medical trips outside the BOP institution for USMS prisoners, the institution will notify the U.S. Marshal a minimum of 72 hours in advance of scheduled medical appointments. For security reasons, the prisoner will not be informed of any scheduled medical appointments. For emergency medical trips for a USMS prisoner, the institution shall immediately notify the U.S. Marshal so that the BOP staff guarding the prisoner can be relieved as soon as possible.

USMS-BOP
Page 11

IV. PERIOD OF PERFORMANCE/MODIFICATION

A. EFFECTIVE DATE

This Agreement shall be effective upon signature of both parties and shall remain in force indefinitely until terminated by the signatory officials, their authorized designees, or successors.

B. TERMINATION

Termination of this Agreement may be initiated by either party upon providing the other party with (30) thirty days advance written notice of the intent to terminate.

C. MODIFICATION

This Agreement, or any of its specific provisions, may be modified or revised by written signatory concurrence (bi-lateral agreement) by both of the signatory officials, their designees, or successors.